THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.18114 OF 2006

Date: 26-10-2007

Between:

Jamalapurapu Viswanadha Rao … Petitioner

And

1.The Government of India,
rep.by its Under Secretary,
Ministry of Home Affairs,
New Delhi.
And others … Respondents

O R D E R;-

Heard the counsel.

2. This court ordered 'Rule nisi. Call for records' on 01.09.2006 and in W.P.MP.No.22747 of 2006 interim suspension was granted for a limited period and, subsequent thereto, the same is being extended from time to time.

3. The writ petition is filed for a writ of Mandamus to declare the proceedings issued in No.112/6197/97-FF(HC) (A) dated 3rd/4th August, 2006 as illegal, arbitrary, discriminatory and violative of Article 14, 21 and 300(A) of the Constitution of India and to set aside the same and for such other reliefs.

4. It is stated in the affidavit filed in support of the writ petition that in pursuance of the Swatantrata Sanik Samman Pension Scheme introduced by the Government of India which is beneficial to persons who have participated in the freedom fight the petitioner made an application to the respondents while enclosing the relevant certificates for sanction of the pension scheme. It is also stated that the petitioner participated in the integration movement of Hyderabad state into Union of India and the petitioner had hoisted the National Flag in his village and neighbouing villages. The petitioner cut down sendhi and toddy trees. The petitioner attacked the customs Nakas. It is also stated that the petitioner along with other colleagues attacked the train and got derailed (goods train) between Terrupalem and Gangineni. For his anti government activities the Nizam Police, were in search of his and knowing of it and at the instructions of the State Congress Camp, the petitioner went underground and joined the Mangollu Border of

Nandigam Taluk, Krishna District and worked till police action during 1947-48. The petitioner also enclosed the relevant certificates viz., 1) Court Judgment; 2) Jail Certificate; 3) Co-prisoner certificate. Basing on the certificates and on the enquiry made upon, the respondents have sanctioned pension to him vide letter No.112/1311/84 FF dated 20.11.1985. The petitioner has been drawing the said pension in pursuance of the sanction of the Government. It is necessary to submit that the petitioner has no means of livelihood and his family members are living o the pension received by him from the respondents. His pension was renewed from time to time and it was renewed up to 31.12.2006. It is stated that the petitioner received a letter dated ¾-8.2006 issued by the first respondent which says that one Sri Swarna Lakshmi Narayana, S/o Bhadraiah, R/o Jannaram village, Enkuru Mandal, Khammam District was sanctioned Swatantrata Sanik Samman Pension with effect from 15.7.2003, on the basis of the certificate issued by him that Sri Swarna Lakshmi Narayana has remained in the Mangolu Border Camp for more than 9 months for the Hyderabad liberation movement. It was further stated that on the enquiry basing on the complaint made against him on verification of the original voters list for the year 1995 his age was 53 years and therefore in March, 1947 his age is less that 5 years therefore the Government of A.P., recommended to cancel the pension granted to Sri Swarna Lakshmi Narayana, S/o Bhadraiah with immediate effect. Further it is stated that the said complaint and the recommendation of the Government of A.P. are illegal and contrary to record. It is further stated that Sri Swarna Lakshmi Narayana participated in the Mangolu Border Camp along with them. Sri Swarna Lakshmi Narayana also produced the age certificate issued by the DM & HO dated 12.1.1998 wherein his date of birth was shown as 66 years. He also enclosed the ration card issued by the MRO, Elukuru in the year 1992 wherein his date of birth was shown as 59 years. Therefore it is stated that the age of Sri Swarna Lakshmi Narayana as on 1947 was 14 years and

the fact remains that he participated in Mangolu Border Camp along with them. Therefore the petitioner certified the same. It is stated that by the said proceedings dated 3rd/4th August, 2006 the petitioner was asked to submit his explanation for the allegation made against him. But in para No.6 of the said letter it was stated that pending final disposal of the case the provisional pension sanctioned to him vide letter No.112/1311/84 FF dated 20.11.1985 being drawn vide PPONo.8399/Pol/Central is hereby suspended with immediate effect. It is further stated that the petitioner has been living and maintaining his family on the pension granted by the respondents. The petitioner has not suppressed any facts nor recommended a false case. However, the petitioner submitting his explanation to the said show cause notice. If the petitioner provisional pension is suspended the petitioner will be put to great hardship and injury. The respondents on one hand calling for his explanation and on the other hand they have suspended his pension. It clearly shows that they have pre-determined to cancel his pension without any enquiry into the matter. Hence the action of the respondents is illegal and also without application of the mind and, therefore, the same is liable to be set aside.

5. In the counter affidavit filed it is stated that one Sri Swarna Lakshmi Narayana, S/o Bhadraiah, Khammam District was sanctioned Swatantrata Sainik Samman Pension with effect from 15.7.2003 inter alia on the basis of a Co-freedom finghter Certificate given by the petitioner vide his affidavit dated 10.1.2002 (Exhibit R1) to the effect that Shri Swarna Lakshmi Narayana had remained in the Mangolu Border Camp for more than 9 months for participating in the Hyderabad Liberation Movement. Further it is stated that on receipt of a complaint regarding the claim of Sri Swarna Lakshmi Narayana S/o Bhadraiah to be a freedom fighter, an inquiry was conducted by District Collector, Khammam and during the inquiry it was found that as per original voter's list for the year 1995, his age was 53 years. Therefore,

the Government of Andhra Pradesh has recommended to cancel the pension granted to Sri Swarna Lakshmi Narayana S/o Bhadraiah, with immediate effect. It is also further averred that it is clear from the above report that since Sri Swarna Lakshmi Narayana was only about 5 years old at relevant time, the petitioner had given a false certificate on 10.1.2002 to the effect that Sri Swarna Lakshmi Narayana had remained underground from 1947 to 1948. Thus he had helped an ineligible person in wrongly claiming Central Samman Pension by giving a false certificate. Further it is stated that it was decided with the approval of the competent authority that the pension sanctioned to Swarna Lakshmi Narayana may be immediately suspended, and due process for cancellation, with full recovery, initiated. It was also decided that as regards the freedom fighter pensions of the persons, including the petitioner, who had given Co-freedom fighter Certificates and Personal Knowledge Certificates in support of the claim of Sri Swarna Lakshmi Narayana,may also be immediately suspended, and due process for cancellation, with full recovery, initiated (for giving false certificates). It is also further stated that it is relevant that the actions of the above persons, including the claimant, in giving false affidavits, apparently constitute serious criminal misconduct, the State Government of Andhra Pradesh was requested that the case may be got investigated by local police, to see if any cognizable offence is made out and to take appropriate action in the matter. As per the normal practice in such cases, the petitioner was given a show cause notice dated 3/4th August, 2006 and asked to show cause as to why his pension should not be cancelled. In his explanation dated 29.8.2006 denied that he had given any false certificate. His explanation was sent to the Government of Andhra Pradesh for inquiry and report on 13.9.2006. Inquiry report of the Government of Andhra Pradesh is still awaited. A final decision regarding the pension sanctioned to the petitioner will be taken on receipt of the inquiry report of the State Government. It is also stated that the Government of

Andhra Pradesh, vide their letter dated 29.6.2006 (Exhibit R2) intimated that as reported by the Collector, Khammam District, the age of Sri Swarna Laxmi Narayana S/o Bhadraiah r/w Jannaram (V), Enukuru (M), freedom fighter pensioner as on 1.1.1995 is 53 years. Thus, his age as on 1947 is 5 years, ie., below the prescribed age ie., 15 years as per the guidelines. The Government of Andhra Pradesh had accordingly requested this Ministry to stop the Samman pension sanctioned to Sri Swarna Laxmi Narayana S/o Bhadraiah immediately. Since it was clear from the State report that the petitioner had got the pension on the basis of false documents/false assertions, it was decided with the approval of competent authority that the Central Government Samman pension sanctioned to the petitioner may be immediately suspended, and due process for cancellation, with full recovery, initiated. It was also decided that Central Samman pension sanctioned to persons, including the petitioner, on the basis of whose certificates pension had been sanctioned to Sri Swarna Lakshmi Narayana, may also be immediately suspended, and due process for cancellation, with full recovery, initiated (for giving false PKC/Co-freedom fighter certificates in favour of the petitioner). The provisional pension sanctioned to the petitioner has been rightly suspended, as per the normal procedure in such cases, since it has been found that he had given a false declaration on affidavit (Exhibit R1) in favour of Sri Swarna Lakshmi Narayana. Further it is stated that the pension of the petitioner has been suspended as per the normal practice and he has been given an opportunity to show cause as to why it should not be cancelled. A final decision regarding cancellation of his pension will be taken on receipt of the inquiry report of the State Government on the explanation given by him. This is the stand taken in the counter-affidavit.

6. In the light of the facts and circumstances, since interim suspension was granted by this court, let the interim suspension be in

operation till a final decision relating to the cancellation of pension is taken, in the light of the enquiry report, if any, to be submitted to the State Government on the explanation given by him.

7. Accordingly, with the above direction, the writ petition is disposed of. No order as to costs.

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P.S.NARAYANA,J

26th October, 2006.

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THE HON'BLE SRI JUSTICE P.S.NARAYANA

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